

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7529

Investigation into the City of Burlington Electric)
Department's tariff filing requesting an 11.33% rate)
increase, to take effect June 26, 2009)

Order entered: 1/28/2010

I. INTRODUCTION

In this Proposal for Decision, I recommend that the Public Service Board ("Board") approve, in its entirety, a Memorandum of Understanding ("MOU") between the City of Burlington Electric Department ("BED") and the Vermont Department of Public Service ("Department") that was filed with the Vermont Public Service Board ("Board") on December 4, 2009.¹ The MOU, if approved, would resolve all issues in this docket. In the MOU, the parties agree that an 11.33% rate increase, effective for service rendered on or after June 26, 2009, results in just and reasonable rates.²

II. PROCEDURAL HISTORY

On May 12, 2009, BED filed with the Board proposed tariff revisions requesting an overall increase in its rates in the amount of 11.33%, to take effect June 26, 2009 (Tariff Filing No. 8088a).

On June 10, 2009, the Department informed the Board that it had reviewed BED's proposed tariff filing and recommended that the Board open an investigation into the proposed rate increase request. In its letter, the Department identified the following areas of concern: (1) BED's fiscal year financial statements, especially the last six months of the test year which had not been audited; (2) payments in lieu of taxes; (3) BED's operational efficiency;

1. I hereby admit the MOU into evidence as Exh. MOU-1.

2. In an e-mail to the Clerk of the Board dated January 22, 2010, BED indicated that the parties intended to state "service rendered" in Paragraph 1 of the MOU rather than "bills rendered." In an e-mail to the Clerk of the Board on the same date, the Department confirmed that "service rendered" reflects the parties' intent.

(4) the proposed issuance of \$36 million in general obligation bonds; (5) operations at the Joseph C. McNeil Generating Station ("McNeil"); and (6) demand-side-management spending.

On June 16, 2009, the Board opened this investigation and appointed me to serve as the Hearing Officer in this proceeding. I held a prehearing conference in this docket on July 1, 2009. At the prehearing conference, I directed BED to provide prefiled testimony to support its rate increase request.

On July 2, 2009, BED advised the Board that it had waived the seven-month deadline for a final order pursuant to 30 V.S.A. § 227.³

On July 31, 2009, BED filed direct testimony supporting its rate increase request.

I conducted a public hearing on August 12, 2009, in Burlington, Vermont. Four members of the public attended the hearing. These individuals raised concerns regarding the impact of the rate increase on ratepayers.

On December 4, 2009, the Department and BED filed an MOU that settles all outstanding issues in this docket.⁴ In the MOU, the parties agree that the testimony and exhibit filed by BED may be admitted in the record.⁵ No party has requested a hearing on the MOU, and I conclude that no hearing is needed.

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I hereby report the following findings and conclusions to the Board.

III. FINDINGS

1. An increase in BED's annual revenues from retail customers of 11.33% (or \$5,126,565), effective June 26, 2009, results in just and reasonable rates. Exh. MOU-1 at 1.

2. BED's annual cost of service is \$50,393,364. Exh. MOU-1, Attachment 1.

3. Without the additional revenues generated by the tariff filing, BED projects that it would have a net loss of \$3,336,000 for fiscal year 2010. Without this revenue increase, BED

3. Letter from William Ellis, Esq., for BED, to Susan Hudson, Clerk of the Board, dated July 2, 2009.

4. In its cover letter, the Department stated that the agreement is a bottom-line settlement and that the parties do not necessarily agree to each line item in the Cost of Service summary (Attachment 1 to the MOU).

5. I hereby admit the Prefiled Testimony of Daryl J. Santerre and Exh. BED-1 into evidence.

would have three consecutive years of reporting net accounting losses. In addition, BED would not have met its 125% debt service coverage requirement. BED states that the rate increase is necessary so that it would not default on its bond obligations. Santerre pf. at 7.

4. The rate increase is also necessary due to increases in BED's Operation and Maintenance expenses: including spending on administrative and general; customer accounting and services; distribution; production; and system load and dispatch. Santerre pf. at 10-13.

5. BED, as a department of the City of Burlington, reports on a fiscal year of July 1 through June 30 of the next year. BED selected calendar year 2008 as the test year for Tariff Filing 8088a. The last six months of the test year are unaudited. Santerre pf. at 4-5.

6. BED relies on very little estimating in its monthly closing process. Most accounting entries are based on actual invoices, not estimated costs, which provides a higher degree of confidence in the six months of data that have not been audited. Santerre pf. at 5.

7. BED completes an extensive financial review during the preparation of reports to the joint owners of McNeil, the State of Vermont, and other agencies that are required to be based on a calendar year. Santerre pf. at 5.

8. BED has been audited by KPMG, LLP, for the past nine years. During this period, none of these audits have resulted in the issuance of any management letters documenting findings regarding any material misstatements or material weakness in internal control. Santerre pf. at 6.

9. Since 1996, BED has reduced its staff size by 24%, from 165 employees to the current level of 126. Santerre pf. at 8.

10. The spending over which BED acknowledges that it has some control has increased 2.5% annually over the past 10 years in "gross" dollars. If adjusted for inflation, that number would be close to or under 0%. Santerre pf. at 8.

11. A total of 39 employees work at McNeil. Half of the costs associated with those employees are allocated to the three other owners of McNeil. Santerre pf. at 8-9.

12. The issuance of a General Obligation Bond of the City of Burlington in the amount of \$36.6 million, backed by the revenues of BED, was approved by the Burlington Board of Electric Commissioners, the Burlington Board of Finance, and the Burlington City Council. In

March 2009, a municipal vote was held and the bond was approved by approximately 85% of Burlington voters. Santerre pf. at 15.

13. While the General Obligation Bond is backed by the full faith and credit of the City of Burlington, thus allowing for a lower interest rate, the bond will be repaid from the savings realized from and the revenues generated by projects planned by BED. This bonding will include several projects that will enhance BED's system and its reliability, allow BED to acquire renewable generation, reduce NOx emissions, and provide greater rate stability in the future. Santerre pf. at 16.

14. BED provides quarterly reports on its energy efficiency programs to the Board and the Department, and provides a comprehensive annual report to all interested parties summarizing the program's accomplishments, spending, and achievement of performance targets during the preceding calendar year. Santerre pf. at 20.

IV. CONCLUSION

On the basis of my review of the MOU and the evidence in this proceeding, I conclude that the settlement embodied in the MOU will result in just and reasonable rates. The initial concerns raised by the Department appear to be adequately addressed by BED in its testimony. Therefore, I recommend that the Board approve the MOU in its entirety and allow the proposed rate increase to take effect for service rendered on or after June 26, 2009.

The parties have waived their right to service of the Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 27th day of January, 2010.

s/Andrea C. McHugh
Andrea C. McHugh
Hearing Officer

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings and recommendation of the Hearing Officer are adopted.
2. The Memorandum of Understanding between the Vermont Department of Public Service and the City of Burlington Electric Department filed on December 4, 2009, is approved.
3. The City of Burlington Electric Department is entitled to rates that will produce annual revenues of \$50,393,364 effective for service rendered on or after June 26, 2009.
4. The City of Burlington Electric Department shall file compliance tariffs within two weeks of the issuance of this Order.

Dated at Montpelier, Vermont, this 28th day of January, 2010.

<u>s/James Volz</u>)	
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<u>s/David C. Coen</u>)	
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<u>s/John D. Burke</u>)	

PUBLIC SERVICE
BOARD
OF VERMONT

OFFICE OF THE CLERK

FILED: January 28, 2010

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.